

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT K. RYMER,

Petitioner,

v.

Case No. 18-C-1347

BRIAN FOSTER,

Respondent.

ORDER

Petitioner Robert K. Rymer, who is currently incarcerated at Waupun Correctional Institution, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent filed a motion to dismiss the petition as untimely on December 13, 2018. The court granted the motion on March 27, 2019 and dismissed the petition. Presently before the court is Rymer's motion for default judgment. Rymer's motion will be denied. The court cannot enter default judgment against Respondent because it has already entered judgment in Respondent's favor.

Even if the court could enter default judgment, Rymer has not provided a basis for doing so. The entry of default and default judgment is reserved for instances in which a party has failed to plead or otherwise defend. *See* Fed. R. Civ. P. 55. Rymer seeks default judgment on the ground that Respondent failed to file a reply brief in support of his motion to dismiss. But the local rules of this district do not require that a party file a reply brief for the merits of the motion to be reviewed. *See* Civil L.R. 7(c) (“[T]he moving party *may* serve a reply memorandum and other papers within 14 days from service of the response memorandum.” (emphasis added)). Respondent

has taken steps to diligently defend this lawsuit. Accordingly, Rymer's motion for default judgment (ECF No. 34) is **DENIED**.

SO ORDERED this 8th day of April, 2019.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court